



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/835,836 | 04/16/2001 | Mark Vange | CIRC010 | 4180 |
| 25235 | 7590 | 09/07/2005 | EXAMINER | |
| HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEENTH ST DENVER, CO 80202 | | | REILLY, SEAN M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2153 | |

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/835,836 | VANGE ET AL. |
| | Examiner | Art Unit |
| | Sean Reilly | 2153 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on 6/20/05. Claims 1-33 are presented for further examination. The oath/declaration objection remains since the Applicant failed to respond previously.

Oath/Declaration

1. The oath is objected to for the following informalities: Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification failed to disclose originating web servers communicating with other originating web servers in order to generate a response to clients, as stated in claim 10. Further the specification states that origin servers have an interface 1) for receiving requests and 2) for responding to requests. The specification failed to disclose an interface on the origin server for making requests to any other server.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 8, 9, 14, 15, 22, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Dias et al. (U.S. Patent Number 6,490,615; hereinafter Dias).

4. Regarding claims 8 and 9, Dias teaches a web site comprising:

- an originating web server coupled to a network (Fig. 3, Components 182, 184) and executing software to access a first set of content and functionality in response to requests from a web client (Characteristics of a web server; Col 3, lines 60-61);
- a front-end server coupled to the network and executing software to access a second set of content and functionality in response to requests from the web client (Fig. 3, Components 172, 174, 176);
- a first communication channel supporting request and response communication between the web client and the front-end server (Fig 3, Network);
- a second communication channel supporting communication between the front-end server and the originating web server (Fig 3, Connection between 172 and 182); and

- means operating cooperatively between the originating web server and the front-end server for receiving requests for web pages from the web client and serving web pages to the requesting web client in response to the received requests (Col 5, lines 26-39).
- means for directing request and response traffic from the first channel to the second channel (Col 5, lines 29-39)

5. Regarding claim 14, Dias discloses a system for serving content from a plurality of network resources comprising:

- a first web server comprising a first set of resources and coupled to serve requests received from a first plurality of network appliances by accessing the first set of resources in response to requests generated by the first plurality of network appliance (Fig 4, Component 172);
- a second web server comprising a second set of resources and coupled to serve requests from a second plurality of network appliances by accessing the second set of resources in response to requests generated by the second plurality of network appliances (Fig 4, Component 176); and
- a communication channel between the first and second web servers such that a request received on the first web server for content of the second web server are served by causing the first web server to access the second web server to obtain the content and servicing the request from the first web server (Col 8, lines 16-28).

6. Regarding claim 15, it presumed for the prior art rejection in this action that a client request is made to the second web server for content, the second server then requests the data from the

first server and the first server retrieves the data from the originating content server. The data is then transmitted from the content server to the first server to the second server for delivery to the client.

7. In further considering claim 15, Dias discloses the system of claim 14 wherein requests received on the second web server for content of the first web server are served by causing the second web server to access the first web server to obtain the content from the first web server and servicing the request from the second web server (Col 8, lines 29-34) [For this embodiment allow Fig 5, Component 176 to be the first server and Component 172 to be the second server].

8. Regarding claim 16, Dias discloses the system of claim 14 wherein the first tier web server fetches content from the second tier web server and serves the fetched content such that it is the originating server for the fetched content (Col 4, lines 16-28).

9. Regarding claim 22, Dias discloses a system for caching network resources comprising:

- an origin web server operable to provide responses containing network resources in response to requests for the contained resources (Figure 3, Components 182 and 184);
- an first intermediary server having a cache therein and coupled to receive the responses and to receive the requests for network resources (Figure 3, Component 172);
- mechanisms within the first intermediary server for determining whether the requested network resources are within the cache (Col 7, lines 26-35); and
- mechanisms within the first intermediary server for serving the requested network resources from the cache when requested network resources are within the cache (Col 7, lines 26-35);

10. Regarding claim 24, Dias discloses the system of claim 22 further comprising a second intermediary server having a cache therein (Figure 5, component 176), the second intermediary server being coupled to receive the responses and to receive the requests for network resources (Col 8, lines 28-34).

11. Regarding claim 25, Dias discloses the system of claim 24 further comprising a communication channel coupling the first intermediary server and the second intermediary server (Figure 5, Components 172 and 176 connected; Col 8, lines 28-34).

12. Claims 22-25 and 27-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Aggarwal et al. (U.S. Patent Number 5,924,116; hereinafter Aggarwal).

13. Regarding claim 22, Aggarwal discloses a system for caching network resources comprising:

- an origin web server operable to provide responses containing network resources in response to requests for the contained resources (Figure 1, Components 20);
- an first intermediary server having a cache therein and coupled to receive the responses and to receive the requests for network resources, wherein the first intermediary server is a web server (Figure 1, Component 30);
- mechanisms within the first intermediary server for determining whether the requested network resources are within the cache (Col 5, lines 42-46); and

- mechanisms within the first intermediary server for serving the requested network resources from the cache when requested network resources are within the cache (Col 5, lines 42-46);

14. Regarding claim 23, Aggarwal discloses 23 the system of claim 22 wherein the network resources are associated with a priority value (Col 4, lines 25-29 and Col 8, lines 7-16) and the cache comprises a priority sensitive cache that selectively stores (decides whether or not a replacement will take place) the network resources in the cache based at least in part on the associated priority (Col 9, lines 24-39).

15. Regarding claim 24, Aggarwal discloses the system of claim 22 further comprising a second intermediary server having a cache therein (Figure 1, component 35), the second intermediary server being coupled to receive the responses and to receive the requests for network resources (Col 5, lines 36-41). [In Aggarwal's system a request for a resource is passed up through the hierarchy until the requested resource is found, the resource is then sent back down the hierarchy to the requesting client. Therefore each proxy cache in the path of such a request is coupled to receive the responses and the requests for resources.]

16. Regarding claim 25, Aggarwal discloses the system of claim 24 further comprising a communication channel coupling the first intermediary server and the second intermediary server (Figure 1, Connection between level-0 and level-1).

17. Regarding claim 27, Aggarwal discloses the system of claim 22 wherein the cache comprises a passive cache that caches network resources as they pass through the intermediary server (Col 9, lines 24-39). [In Aggarwal's system a proxy cache will decide whether or not to

cache objects (using the replacement selection logic 172) as the requested objects pass through the proxy cache server.]

18. Regarding claims 28 and 30, Aggarwal discloses the system of claim 22 wherein the cache comprises an active cache that caches network resources in response to encoded instructions (Col 6, lines 40-44) within the network resource (Col 9, lines 24-39). Aggarwal's system uses the CHL value to determine whether or not to cache an object in the replacement selection algorithm (172). In further considering claim 30, an intermediary server (proxy cache server) is capable of encoding instructions (CHL values) (Col 4, lines 49-50).

19. Regarding claim 29, Aggarwal discloses the system of claim 22 wherein the cache comprises an active cache that caches network resources in anticipation of requests for the network resource (Col 9, lines 24-39). [Aggarwal anticipates requests based on the time to obsoleteness TTO, which is incorporated into the selection weight of a resource (Col 9, lines 56-58; Col 10, lines 9-11).]

20. Regarding claims 31-33, Aggarwal discloses the system of claim 22 wherein the intermediary server comprises: a front-end computer having a cache therein and located on a client-side of a network (Figure 1, Component 50; in relation to clients 60.3); and a back-end server having a cache therein located on an originating server-side of a network (Figure 1, Component 30; in relation to clients 60.3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 1, 2, 7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dias et al. (U.S. Patent Number 6,490,615; hereinafter Dias) and Dujari (U.S. Patent Number 6,199,107).

22. Regarding claim 1, Dias discloses a system for serving web pages to a client in response to a client request specifying a resource, the system comprising:

- a first web server (Fig. 3, Components 182, 184) having a first address, the first web server having a request interface for receiving requests and a response interface for sending responses to the requests (Characteristics of a web server; Col 3, lines 60-61);
- a communication network coupled to the first web server (Fig. 3);
- a second web server (Fig. 3, Components 172, 174, 176) having a second address (Col 4, lines 43-45) and implementing interface processes for communicating with a client application and for communicating with the first web server, the second web server coupled to both obtain the request-specified resources from the first web server and generate a response to the client request (Col 5, lines 29-39).

However, Dias fails to disclose obtaining *at least some* of the request-specified resources from the first web server and augmenting the obtained resources using resources within the second web server. Nonetheless, generating a response for a requested resource using both cached resources on a second server and obtained resources from a first server was well known in the art at the time of invention, as evidenced by Dujari. In a similar art, Dujari discloses a

partial content caching system (Col 1, lines 35-39) where responses to client requests are generated using both cached content resources and resources obtained from a first web server (Col 1, lines 40-50). Dujari further discloses the benefits of such a system include reduced client latency, reduced server load and improved network utilization (Abstract, second to last sentence). Thus, given the teachings of Dujari, it would have been obvious to one of ordinary skill in the art at the time of invention to design the Dias cache nodes (Fig 3, Components 172, 174, 176) to include the partial resource caching and retrieval functionality disclosed by Dujari in order to reduce client latency, reduce server load and improve network utilization.

23. Regarding claim 2, it was well known in the art at the time of invention that a web server can be placed anywhere with a connection to internet. It was further well known at the time of invention that a web server could implement (serve) any number of web sites.

24. Regarding claim 7, Dias discloses a method for serving web pages to a client in response to a client request specifying a network resource, the method comprising:

- providing an originating web server (Fig. 3, Components 182, 184) upon which the requested resource resides, the originating web server having a request interface for receiving requests and a response interface for sending responses to the requests (Characteristics of a web server; Col 3, lines 60-61);
- providing a front-end server (Fig. 3, Components 172, 174, 176);
- redirecting a client request addressed to the originating web server to the front-end server (Col 5, lines 10-13);
- using the front-end server to obtain at least some of the request-specified resources from the originating web server (Col 5, lines 29-39);

Art Unit: 2153

- using resources within the front-end server or resources obtained from the originating server to generate a response to the client request; and communicating the augmented response from the front-end server to the client (Col 5, lines 26-39).

As discussed above (Claim 1), Dias fails to disclose augmenting resources obtained from an originating web server with resources stored on the front-end server. However, the combined systems of Dias and Dujari teach generating client responses using content stored both on a front-end server and an originating server. Refer to the rationale used in claim 1 above.

25. Regarding claim 13, Dias discloses a method for serving content from a plurality of servers comprising:

- a providing a request for content, the request being associated with a specified address (Col 5, lines 26-29);
- providing a first web server (Fig. 3, Components 172, 174, 176) having the address specified in the request and directing the request to the server having the specified address and having at least a portion of the network resources specified in the request (Col 10, lines 14-28);

As discussed above (Claim 1), Dias fails to disclose causing the server to serve a first portion of the request from the server itself; and causing the server to serve a second portion of the request from a second tier web server. However, the combined systems of Dias and Dujari teach generating client responses using content stored both on a front-end server and an originating server. Refer to the rationale used in claim 1 above.

26. Claims 17-21 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dias et al. (U.S. Patent Number 6,490,615; hereinafter Dias) and Gadish (U.S. Patent Number 6,202,087).

27. Regarding claim 17, Dias discloses a system for serving web pages to a network client comprising:

- a network (Figure 3, Component 150);
- an origin web server coupled to the network (Figure 3, Components 182 and 184);
- a client coupled to the network and generating requests directed to the origin web server (Figure 3, Component 110);
- a gateway machine in communication with the client, the gateway machine configured to receive requests from the client, obtain web pages from the origin web server in response to the received request, and serve the obtained pages to the client (Figure 3, Components 172, 174, and 176);
- means for detecting a busy condition (availability/load) (Col 4, lines 56-58);

However, Dias fails to disclose a means for detecting a busy condition in the origin server. Dias also fails to disclose means responsive to the busy condition for severing a page generated by the gateway machine in response to the client request. Nonetheless, it was widely known in the art at the time of invention to detect when a server is overloaded and generate an alternate webpage in response to the overloaded server condition, as evidenced by Gadish. Gadish discloses an error message detection system, which intercepts error messages when a query is not resolvable by a server (a server busy condition) and replaces the error message with

a non-error message (Col 2, lines 49-60). Gadish further discloses that the intermediary device (Gadish, Figure 1, device 20) that intercepts any error messages and generates replacement messages can be located on any computer in communication with the server (Col 5, lines 33-36). It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate Gadish's error message detection and non-error message generator functionality within the cache nodes of Dias's system in order to provide a user with much more focused, specific information during a server outage or overloaded period rather than simply indicating that the requested page is unavailable (Gadish Col 1, lines 42-44).

28. Regarding independent claims 20 and 21, the limitations of claims 20 and 21 are similarly drawn to the limitations of claim 17 and are rejected using the same rational.

29. Regarding claim 18, the system of claim 17 wherein the gateway machine comprises web server software capable of generating static (cached pages) (Dias Col 7, lines 30-35) and dynamic web pages (generate non-error messages) (Col 2, lines 49-60).

30. Regarding claim 19, Gadish discloses the system of claim 17 wherein the means for serving substitute pages places the gateway machine in a role of the origin server (Col 2, lines 49-60).

31. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aggarwal et al. (U.S. Patent Number 5,924,116; hereinafter Aggarwal).

32. In further considering claim 26, Aggarwal discloses the system of claim 25 wherein the network resources are associated with a priority value (Col 4, lines 25-29 and Col 8, lines 7-16)

and a communication channel exists between the first and second intermediary servers, as discussed above. Aggarwal fails to explicitly disclose the communication channel being responsive to resource priority values in order to *regulate the manner* in which data is communicated between the first intermediary server and the second intermediary server. However, in Aggarwal's system each proxy cache makes a decision whether or not to cache an object through the replacement selection logic (171) (Col 9, lines 24-39). If an object X were cached in a first intermediary server (Figure 1, Component 30) but not in a second intermediary server (Figure 1, Component 35) and a client requested object X, then the second intermediary server would have to decide whether or not to cache object X based on its priority (selection weight). If the second intermediary server does not cache object X then all future requests through the second intermediary server for object X must pass through the communication channel between the first and second intermediary servers. Alternately if the secondary server caches object X then future requests for object X need not traverse the communication channel between the first and second intermediary servers. Therefore, the manner in which data is communicated between the first and second server is regulated.

33. Claims 3-6 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dias et al. (U.S. Patent Number 6,490,615; hereinafter Dias), Dujari (U.S. Patent Number 6,199,107), as applied to claim 1 above, and in further view Gadish (U.S. Patent Number 6,202,087).

34. Regarding claim 3 and 5, Gadish discloses an error message detection system, which intercepts error messages when a query is not resolvable by a server (a server busy or unavailable

condition) and replaces the error message with a non-error message (substitutes resources) (Col 2, lines 49-60). Gadish further discloses that the intermediary device (Gadish, Figure 1, device 20) that intercepts any error messages and generates replacement messages can be located on any computer in communication with the server (Col 5, lines 33-36). Hence this intermediary device could be located on a gateway computer (a Cache Node in the Dias system) in order to detect an origin server busy condition (error message response) and generate an alternate webpage (non-error message) to service the client request. It would have been obvious to one of ordinary skill in the art at the time of invention to incorporate Gadish's error message detection and non-error message generator functionality within the combined systems of Dias and Dujari in order to provide a user with much more focused, specific information during a server outage or overloaded period rather than simply indicating that the requested page is unavailable (Col 1, lines 42-44).

35. Regarding claims 4 and 6, Gadish discloses substituting resources that comprise a redeemable coupon (Col 1, line 67 – Col 2, line 6).

36. Regarding claim 38, Dias fails to disclose obtaining *at least two portions* of the request-specified resources from two or more gateways/servers. Nonetheless, generating a response for a requested resource using both cached resources on a gateway server and obtained resources from a second server was well known in the art at the time of invention, as evidenced by Dujari. In a similar art, Dujari discloses a partial content caching system (Col 1, lines 35-39) where responses to client requests are generated using both cached content resources and resources obtained from a server (Col 1, lines 40-50). Dujari further discloses the benefits of such a system include reduced client latency, reduced server load and improved network utilization (Abstract, second to

last sentence). Thus, given the teachings of Dujari, it would have been obvious to one of ordinary skill in the art at the time of invention to design the combined Dias and Gadish system to include the partial resource caching and retrieval functionality disclosed by Dujari in order to reduce client latency, reduce server load and improve network utilization.

Response to Arguments

1. In response to Applicant's request for reconsideration filed on ***, the following factual arguments are noted:
 - a. 112 1st ¶ support for claims 10-12 is found on pg 5, lines 15-31.
 - b. The caches 172, 174, and 176 of the Dias reference are not web servers.
 - c. The proxy servers of the Aggarwal reference are not web servers.
 - d. The combination of Dias and Gadish is improper.

In considering (a), Examiner respectfully disagrees with Applicant's argument. The section that Applicant points to for alleged 112 1st ¶ support, pg 5, lines 15-31, fails to even mention originating web servers communicating with other originating web servers in order to generate a response to clients. Accordingly the 112 1st ¶ rejection stands.

In considering (b), Examiner respectfully disagrees with Applicant's argument. The caches of Dias are clearly web servers since they serve web content in response to requests from clients. For instance see Dias Col 5, lines 26-39, where a client issues a request for a web page

(Col 5, line 27), the request is routed to the cache node which in turn serves the web page to the client (Col 5, line 39).

In considering (c), Examiner respectfully disagrees with Applicant's argument. The proxy servers of Aggarwal are clearly web servers since they are able to serve web content in response to requests from clients. For instance see Aggarwal Col 5, lines 24-30 and 42-49. Applicant may further limit the definition of a web server however in the instant case, Aggarwal's proxy servers are analogous to Applicant's claimed intermediary servers.

In considering (d), Examiner respectfully disagrees with Applicant's argument. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the instant case, the motivation to combine Dias and Gadish comes directly from the Gadish reference as mapped in the above action. Further it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392,

170 USPQ 209 (CCPA 1971). Again in the instant case the motivation to combine Dias and Gadish comes directly from the Gadish reference.

In response to applicant's argument that the caches of Dias are non computational devices, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Further the Examiner respectfully disagrees with Applicant's contention that the caches of Dias are non computational. The caches of Dias are fully functional and computational computing devices that are web servers in the capacity that they serve web content to requesting clients (see *inter alia* Dias Col 5, lines 26-39).

Conclusion

2. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8/26/05



GLENON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100